

REMARKS

I. Status of the Subject Application

Claims 1-20 are currently pending in the Subject Application. Claims 1-14 have been previously rejected by the Examiner. Claims 15-20 are new. A Petition for an Extension of Time is enclosed herewith.

II. Rejections Under 35 U.S.C. § 103(a)

Claims 1-6 and 8-14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,766,561 to Frieze et al. (Frieze '561) in view of U.S. Patent No. 6,921,502 to Nord et al. (Nord '502).

Independent Claims 1 and 14

Independent Claim 1, as amended, recites, among other things, a sterilization container system comprising a flexible elastomeric mat having a downwardly facing surface resting upon an upwardly facing surface of an enclosure, and a pattern of ridges **extending from the downwardly facing surface, wherein the pattern is such that no fold line can traverse the mat from one side to the other without intersecting at least one ridge**. Independent Claim 14, as amended, recites, among other things, a method of sterilizing an item comprising the steps of levitating a mat above a bottom surface of an enclosure via a pattern of ridges **extending from a lower surface of the mat, the pattern being such that no fold line can traverse the mat from one side to the other without intersecting at least one ridge**.

Referring to page 2 of the Office Action, the Examiner states that Frieze '561 discloses "an enclosure (12) defining an interior volume (as shown in Figure 1); an upwardly facing

surface in the interior volume (as shown in Figure 2); a flexible elastomeric mat (10) formed of silicone (as disclosed in the title), having a downwardly facing surface resting upon the upwardly facing surface (as shown in Figure 1); and wherein the downwardly facing surface is provided with a pattern of ridges (as shown in Figure 3B).” The Examiner further states, and Applicant agrees, that Frieze ‘561 **does not disclose** a pattern of ridges such that no fold line can traverse the mat from one side to the other without intersecting a plurality of ridges.

In an attempt resolve the deficiencies of Frieze ‘561, the Examiner has pointed to Figs. 35 and 36 of Nord ‘502 to disclose a pattern of ridges wherein **the pattern is such that no fold line can traverse the mat from one side to the other without intersecting at least one ridge**. Referring to page 6 of the Office Action, the Examiner has since conceded that Fig. 36 does not disclose such a pattern of ridges. Applicant agrees with the Examiner’s concession. Referring to Fig. 35, the Examiner contends that a rough surface is both a surface and a pattern of ridges. Applicant respectfully submits that such a position is simply untenable, especially in view of the Subject Application and the Examiner’s position regarding Frieze ‘561. More particularly, Claim 1 of the Subject Application recites **both** a downwardly facing surface **and** a pattern of ridges. Applicant submits that if a surface, whether smooth or rough, was **both** a surface and a pattern of ridges, the recitation of a pattern of ridges in Claim 1 would be superfluous. Accordingly, a surface and a pattern of ridges are separate and distinct elements of the claims. To this end, Applicant has amended Independent Claims 1 and 14 to emphasize this point, i.e., a downwardly facing surface and a pattern of ridges are separately recited claim elements and that the ridges **extend from** a downwardly facing surface.

Examples disclosed within the Subject Application support Applicant's position. More particularly, referring to Fig. 3 and paragraph [0025] of the Subject Application, the Subject Application separately identifies ridges 34 and bottom surface 36 of mat 26 and does not refer to them together as a surface. Furthermore, the Examiner readily refers to Fig. 3B of Frieze '561 as disclosing a bottom surface of a mat and a pattern of ridges. Upon examining Fig. 3B, a maximum of four features of mat 10 are disclosed, i.e., bottom surface 28, ribs 38, holes 40, and holes 46. Thus, the Examiner must be specifically pointing to ribs 38 as a pattern of ridges and bottom surface 28 as a bottom surface. Accordingly, the Examiner has readily identified that a bottom surface and ridges are, in fact, two separate and distinct features which is contrary to his position regarding Fig. 35 of Nord '502. In any event, even if the Examiner's definition of the term surface is tenable, such a definition is inconsistent with the ordinary sense of the word 'ridge' and, importantly, inconsistent with the disclosure and lexicon of the Subject Application. As the Examiner is well aware, the claims of an application must be interpreted in view of its specification. *See Phillips v. AWH Corp.*, 415 F.3d 1301 (Fed. Cir. 2005) (en banc).

Further to the above, referring to pages 2 and 3 of the Office Action, the Examiner repeatedly states that cleats or ridges on the lower surface of any mat are known to increase the **adhesion** between the mat itself and a surface that mat is lying on. In view of such statements, it would appear that the Examiner misunderstands the importance of the claimed ridges. Referring to paragraph [0025] of the Subject Application, the claimed ridges can decrease the tendency of a mat to roll, or fold over, during a sterilization process and it is the **pattern of ridges being such that no fold line can traverse the mat from one side to the other without intersecting at least one ridge**, as recited in Claim 1, for example, which can prevent such folding.

In view of the above, it is clear that Frieze '561 and Nord '502 do not teach or suggest the pattern of ridges as claimed in Independent Claims 1 and 14. Accordingly, for at least the reasons advanced above, Applicant respectfully submits that the Examiner's rejection of Independent Claims 1 and 14, and Claims 2-13 depending from Claim 1, must be withdrawn. Further, Applicant herein reminds the Examiner that he bears the burden of providing an **apparent reason** for combining the teachings of the cited references and such an apparent reason must be express. *KSR International Co. v. Teleflex Inc. et al.*, 127 S. Ct. 1727 (2007). Upon reviewing the Office Action, Applicant cannot find such apparent reasons.

Dependent Claim 7

Dependent Claim 7 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Frieze '561 in view of Nord '502, and in further view of U.S. Publication No. 2001/0046582 to Kerr et al. Applicant respectfully submits that Kerr '582 does not remedy the defects of Frieze '561 and Nord '502 and, as a result, Dependent Claim 7 is allowable with Independent Claim 1 from which it depends for at least the reasons advanced above.

III. New Claims 15-20

New Independent Claim 15, and Claims 16-20 depending therefrom, have been added by the present amendment. Independent Claim 15 recites a mat for use with a sterilization container, the mat comprising: a first side, a second side, an upper surface, a lower surface, and a pattern of ridges extending from the lower surface, wherein the pattern is such that no fold line can traverse the mat from the first side to the second side without intersecting at least one ridge. For at least the reasons advanced above, Applicant respectfully submits that none of the

references cited in the Office Action disclose such features and, as a result, Applicant respectfully solicits the allowance of Claims 15-20.

IV. Conclusion

Applicant respectfully submits that all of the claims presented in the Subject Application, as either amended or initially presented in this Amendment, are in condition for allowance. Applicant's present Amendment should not in any way be taken as acquiescence to any of the specific assertions, statements, etc., presented in the Office Action not explicitly addressed herein. Applicant reserves the right to specifically address all such assertions and statements in subsequent responses.

Applicant has made a diligent effort to properly respond to the Office Action and believes that the claims are in condition for allowance. If the Examiner has any remaining concerns, the Examiner is invited to contact the undersigned at the telephone number set forth below so that such concerns may be expeditiously addressed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Chris M. Best', written over a horizontal line.

Christian M. Best
Registration No. 49,082

Attorney for Applicants

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, Pennsylvania 15222-2312
Telephone: (412) 355-8636
Facsimile: (412) 355-6501